

1 Michael W. Fattorosi, Esq., Calif. State Bar No. 193538
michael@fclawyers.com
2 Craig L. Chisvin, Esq., Calif. State Bar No. 191825
craigc@fclawyers.com
3 Members of Fattorosi & Chisvin
6300 Canoga Avenue, Suite 550
4 Woodland Hills, California 91367
(818) 881-8500, Fax (818) 881-9008
5
6 Attorney for Plaintiffs, CHERILYN MCCARVER,
an individual, and LANE ENTERTAINMENT, INC.,
a California Corporation

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CV08-06739

11 CHERILYN MCCARVER, an individual, and LANE)
12 ENTERTAINMENT, INC., a California Corporation,)
13 Plaintiffs,)
14 vs.)
15 VIVID ENTERTAINMENT GROUP, LLC, a)
16 California Limited Liability Company; DIGITAL)
17 PLAYGROUND, INC., a California Corporation;)
18 DOMAINS BY PROXY, INC., an Arizona)
19 Corporation; DOTSTER, INC., a Delaware)
20 Corporation; MONIKER ONLINE SERVICES, LLC,)
21 a Florida Limited Liability Company; PIXEL)
22 STREAMED NETWORKING, LLC, a Hawaiian)
23 Limited Liability Company; WHOIS PRIVACY)
24 PROTECTION SERVICE, INC., a Washington)
25 Corporation; and DOES 1 through 10, inclusive,)
26 Defendants.

CASE NO.)
COMPLAINT FOR INJUNCTION)
AND DAMAGES FOR:
(1) INFRINGEMENT OF)
TRADEMARK,
(2) TRADEMARK DILUTION,
(3) FALSE DESIGNATION OF)
ORIGIN AND UNFAIR)
COMPETITION,
(4) CONTRIBUTORY TRADEMARK)
INFRINGEMENT,
(5) CYBERSQUATTING IN)
VIOLATION OF 15 U.S.C. §)
1125(d),
(6) CYBERSQUATTING IN)
VIOLATION OF 15 U.S.C. § 1129,
(7) CYBERSQUATTING IN)
VIOLATION OF CALIFORNIA)
BUSINESS & PROFESSIONS)
CODE § 17525,
(8) COMMON LAW)
MISAPPROPRIATION OF)
LIKENESS, and
(9) COMMERCIAL)
MISAPPROPRIATION OF)
LIKENESS UNDER CALIFORNIA)
CIVIL CODE §3344,
DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

27 | //

28 | //

1 COME NOW Plaintiffs, CHERILYN MCCARVER, an individual, and LANE
 2 ENTERTAINMENT, INC., a California Corporation (hereinafter collectively referred to as
 3 "Plaintiffs"), for their complaint against VIVID ENTERTAINMENT GROUP, LLC, a California
 4 Limited Liability Company; DIGITAL PLAYGROUND, INC., a California Corporation;
 5 DOMAINS BY PROXY, INC., an Arizona Corporation; DOTSTER, INC., a Delaware
 6 Corporation; MONIKER ONLINE SERVICES, LLC, a Florida Limited Liability Company;
 7 PIXEL STREAMED NETWORKING, LLC, a Hawaiian Limited Liability Company; WHOIS
 8 PRIVACY PROTECTION SERVICE, INC., a Washington Corporation; and DOES 1 through
 9 10, inclusive, (hereinafter collectively referred to as "Defendants") allege as follows:

10 **JURISDICTION AND VENUE**

11 1. This is an action involving claims of trademark infringement and unfair
 12 competition under the Lanham Act, 15 U.S.C. §1051 et seq., and claims under the common
 13 law and statutory law of the State of California. This Court has jurisdiction over
 14 Plaintiffs' federal claims pursuant to 15 U.S.C. §1121 and 28 U.S.C. §§ 1331 and 1338(a).
 15 This Court has jurisdiction over Plaintiffs' related claims based on state law pursuant to 28
 16 U.S.C. § 1367.

17 2. Venue is proper under 28 U.S.C. 1391(b) because the defendants transact
 18 business in this Judicial District or are headquartered here, they solicit subscriptions to their
 19 services in this Judicial District in the course of using Plaintiffs' mark and because a
 20 substantial part of the events giving rise to Plaintiffs' claims arose here.

21 **THE PARTIES**

22 3. Plaintiff, CHERILYN MCCARVER (hereinafter referred to as "MCCARVER"),
 23 also professionally and personally known as "Devinn Lane," is an individual and a citizen of
 24 West Virginia. MCCARVER was and is in the business of providing entertainment services
 25 in the form of, *inter alia*, personal appearances by a movie star, television celebrity, model
 26 and dancer; and in the form of providing an on-line global computer network web site
 27 featuring entertainment, graphics, pictures, photos and audio-visual works. MCCARVER has
 28 ///

1 used and been using the pseudonym "Devinn Lane" as her own name in commerce
2 beginning as early as 1993.

3 4. Plaintiff, LANE ENTERTAINMENT, INC. (hereinafter referred to as "LANE
4 ENTERTAINMENT"), previously incorporated as Trilane Productions, Inc., is a corporation
5 organized and existing under the laws of California, with its principal place of business within
6 the County of Los Angeles, California. LANE ENTERTAINMENT was and is in the business
7 of providing entertainment services in the form of, *inter alia*, personal appearances by
8 MCCARVER and in the form of providing an on-line global computer network web site
9 featuring entertainment, graphics, pictures, photos and audio-visual works. LANE
10 ENTERTAINMENT is the owner of United States Trademark Registration Number 2,565,432
11 for the mark "Devinn Lane," which was registered on April 20, 2002.

12 5. Plaintiffs are informed and believe, and thereon allege, that Defendant VIVID
13 ENTERTAINMENT GROUP, LLC (hereinafter referred to as "VIVID") is a limited liability
14 company organized and existing under the laws of the State of California, with its principal
15 place of business at 3599 Cahuenga Boulevard West, Los Angeles, California, 90068.
16 VIVID was and is in the business of producing, manufacturing, distributing and selling adult-
17 oriented motion pictures. VIVID operates and/or provides the content for an adult-content
18 web site located at www.vivid.com. VIVID is directly and indirectly responsible for the
19 wrongful conduct alleged herein, and on information and belief, has conspired with the other
20 defendants to engage in such wrongful conduct.

21 6. Plaintiffs are informed and believe, and thereon allege, that Defendant DIGITAL
22 PLAYGROUND, INC. (hereinafter referred to as "DIGITAL PLAYGROUND") is a California
23 corporation organized and existing under the laws of the State of California, with its principal
24 place at 16134 Hart Street, Van Nuys, California, 91406. DIGITAL PLAYGROUND was and
25 is in the business of producing, manufacturing, distributing and selling adult-oriented motion
26 pictures. DIGITAL PLAYGROUND operates and/or provides the content for an adult-content
27 website located at www.digitalplayground.com. DIGITAL PLAYGROUND is directly and

28 ///

1 indirectly responsible for the wrongful conduct alleged herein, and on information and belief,
2 has conspired with the other defendants to engage in such wrongful conduct.

3 7. Plaintiffs are informed and believe, and thereon allege, that Defendant
4 DOMAINS BY PROXY, INC. (hereinafter "DOMAINS BY PROXY") is a corporation organized
5 and existing under the laws of Arizona, having its principal place of business at 15111 North
6 Hayden Road, Suite 160, Scottsdale, Arizona 85260. DOMAINS BY PROXY was and in the
7 business of providing anonymous domain name registration for web sites on the Internet.

8 8. Plaintiffs are informed and believe, and thereon allege, that DOMAINS BY
9 PROXY has numerous and regular contacts in California, advertises its products and
10 services in California through its Internet web site, has sold and licensed its products and
11 services in California, has entered into business contracts in California availing itself of
12 California law, and has entered into contracts with numerous residents of California. This
13 action arises, in part, from DOMAIN BY PROXY's contacts with California. DOMAINS BY
14 PROXY is directly and indirectly responsible for the wrongful conduct alleged herein, and on
15 information and belief, has conspired with the other defendants to engage in such wrongful
16 conduct.

17 9. Plaintiffs are informed and believe, and thereon allege, that Defendant
18 DOTSTER, INC., doing business as RevenueDirect (hereinafter referred to as "DOTSTER"),
19 is a corporation organized and existing under the laws of Delaware, with its principal place
20 of business at 8100 NE Parkway Drive, Suite 300, Vancouver, Washington, 98662.
21 DOTSTER is a domain name monetization service provider, commonly referred to as an
22 affiliate program. DOTSTER was and is in the business of helping owners of web site
23 domain names exploit the value of the domain name by using it to generate and redirect
24 traffic on the Internet.

25 10. Plaintiffs are informed and believe, and thereon allege, that DOTSTER has
26 numerous and regular contacts in California, advertises its products and services in
27 California through its Internet web site, has sold and licensed its products and services in
28 California, has entered into business contracts in California availing itself of California law

1 and has entered in contracts with numerous residents of California. This action arises, in
2 part, from DOTSTER's contacts with California. DOTSTER is directly and indirectly
3 responsible for the wrongful conduct alleged herein, and on information and belief, has
4 conspired with the other defendants to engage in such wrongful conduct.

5 11. Plaintiffs are informed and believe, and thereon allege, that Defendant
6 MONIKER ONLINE SERVICES, LLC (hereinafter "MONIKER") is a limited liability company
7 organized and existing under the laws of Florida, with its principal place of business at 20
8 S.W. 27th Avenue, Suite 201, Pompano Beach, Florida, 33069. MONIKER was and in the
9 business of providing domain name registration for web sites on the Internet.

10 12. Plaintiffs are informed and believe, and thereon allege, that MONIKER has
11 numerous and regular contacts in California, advertises its products and services in
12 California through its Internet web site, has sold and licensed its products and services in
13 California, has entered into business contracts in California availing itself of California law,
14 and has agents doing business in California. This action arises, in part, from MONIKER's
15 contacts with California. MONIKER is directly and indirectly responsible for the wrongful
16 conduct alleged herein, and on information and belief, has conspired with the other
17 defendants to engage in such wrongful conduct.

18 13. Plaintiffs are informed and believe, and thereon allege, that Defendant PIXEL
19 STREAMED NETWORKING, LLC (hereinafter "PIXEL") is a limited liability company
20 organized and existing under the laws of Hawaii, with a principal place of business at 2051
21 Young Street, Suite 33, Honolulu, Hawaii, 96826. PIXEL was and is in the business of digital
22 media and Internet management.

23 14. Plaintiffs are informed and believe, and thereon allege that PIXEL has
24 numerous and regular contacts in California, advertises its products and services in
25 California through its Internet web site, has sold and licensed its products and services in
26 California, has entered into business contracts in California availing itself of California law,
27 and has agents doing business in California. This action arises, in part, from PIXEL's
28 ///

1 contacts with California. PIXEL is directly and indirectly responsible for the wrongful conduct
2 alleged herein, and on information and belief, has conspired with the other defendants to
3 engage in such wrongful conduct.

4 15. Plaintiffs are informed and believe, and thereon allege that Defendant WHOIS
5 PRIVACY PROTECTION SERVICE, Inc. (hereinafter "PRIVACY PROTECT") is a corporation
6 organized and existing under the laws of Washington, with a principal place of business at
7 PMB 368, 14150 NE 20th Street - F1, Bellevue, Washington, 98007. PRIVACY PROTECT
8 was and in the business of providing anonymous domain name registration for web sites on
9 the Internet.

10 16. Plaintiffs are informed and believe, and thereon allege that Defendant
11 PRIVACY PROTECT has numerous and regular contacts in California, advertises its
12 products and services in California through its Internet web site, has sold and licensed its
13 products and services in California, has entered into business contracts in California availing
14 itself of California law, and has agents doing business in California. This action arises, in
15 part, from PRIVACY PROTECT's contacts with California. PRIVACY PROTECT is directly
16 and indirectly responsible for the wrongful conduct alleged herein, and on information and
17 belief, has conspired with the other defendants to engage in such wrongful conduct.

18 17. The true names and capacities, whether individual, corporate, associate or
19 otherwise, of defendants DOES 1 through 10 inclusive, are unknown to Plaintiffs, who
20 therefore sue said defendants by such fictitious names. Plaintiffs will amend this Complaint
21 to include their proper names and capacities when they have been ascertained. Plaintiffs
22 are informed and believe, and based thereon allege, that each of the fictitiously named
23 defendants participated in and are in some manner responsible for the acts described in this
24 Complaint and damage resulting therefrom.

25 18. Plaintiffs allege on information and belief that each of the defendants named
26 herein as DOES 1 through 10 inclusive, performed, participated in, or abetted in some
27 manner, the acts alleged herein, proximately caused the damages alleged hereinbelow, and
28 are liable to Plaintiffs for the damages and relief sought herein.

1 19. Plaintiffs allege on information and belief that, in performing the acts and
2 omissions alleged herein, and at all times relevant hereto, each of the defendants was the
3 agent and employee of each of the other defendants and was at all times acting within the
4 course and scope of such agency and employment with the knowledge and approval of each
5 of the other defendants.

FACTUAL ALLEGATIONS

7 20. As early as 1993, Plaintiffs began using the name “Devinn Lane” in commerce
8 in connection with Plaintiffs’ business. On April 30, 2002, Plaintiffs obtained a registered
9 trademark from the United States Patent and Trademark Office (hereinafter “USPTO”) for the
10 name “Devinn Lane,” United States Trademark Registration Number 2,565,432 for
11 entertainment services, in International Class 041 (hereinafter referred to as the “Mark”).
12 The Mark is inherently distinctive, as confirmed by the USPTO’s registration thereof. Trilane
13 Entertainment, Inc. was the registered owner of this mark. Trilane Entertainment, Inc. has
14 since legally changed its name to LANE ENTERTAINMENT, INC. MCCARVER is a licensee
15 of the Mark.

16 21. The trademark registration provided Defendants constructive notice of Plaintiffs' claim of exclusive ownership of the Mark and constitutes prima facie evidence of the validity of the Mark, Plaintiffs' registration thereof and Plaintiffs' exclusive right to use and license said Mark in commerce in connection with MCCARVER's business of providing entertainment services in the form of, *inter alia*, personal appearances by a movie star, television celebrity, model and dancer, and in the form of providing an on-line global computer network web site featuring entertainment, graphics, pictures, photos and audio-visual works, as provided by Sections 7 and 22 of the Lanham Act, 15 U.S.C. §§ 1057 and 1072.

24 22. Plaintiffs have been using the Mark continuously and extensively since first
25 adopting the Mark. Moreover, Plaintiffs have invested significant amounts of time, effort and
26 resources to advertise and promote Plaintiffs' services under the Mark in interstate
27 commerce throughout the United States and worldwide.

28 | / / /

1 23. As a result of Plaintiffs' continuous and extensive use of the Mark in such
2 media as motion pictures, television, print, as well as live modeling and dancing, the public
3 and those involved in the trade have come to identify the Mark with Plaintiffs in the United
4 States and internationally. Thus, the Mark serves to identify the source of Plaintiffs' services
5 and distinguishes Plaintiffs' goods and services from the goods and services of others.

6 24. By virtue of Plaintiffs' marketing efforts and expenditures, and as a result of the
7 excellence of Plaintiffs' products, the Mark has achieved a distinctive and valuable reputation
8 and degree of good will. In addition, the Mark has become famous, as MCCARVER is known
9 in the United States and internationally as "Devinn Lane." MCCARVER as "Devinn Lane"
10 has:

- 11 a. performed as a feature adult entertainer in more than 70 adult films since 1999;
- 12 b. directed approximately 17 adult films, including 5 volumes of an adult film titled
13 "The Devinn Lane Show;"
- 14 c. written and directed on several adult films, including one for which she was
15 nominated for the AVN Best Gonzo Release award;
- 16 d. produced 2 adult films, including one for which she was nominated for the AVN
17 Award Best All-Girl Feature;
- 18 e. been nominated in for Best New Starlet at the Hot D'Or Awards and has been
19 nominated for several AVN Awards including Best Actress (twice), Female
20 Performer of the Year (twice) and Best Supporting Actress (twice); to date she
21 has won 2 AVN Awards for Best Actress and Best Solo Sex Scene;
- 22 f. entered into an exclusive performance contract for the prestigious adult
23 production company Wicked Pictures; such exclusive contracts are generally
24 entered into with the express purpose of bringing an adult star into
25 superstardom;
- 26 g. hosted and continues to host a show on Playboy TV and has appeared in
27 several softcore films which appear on DVD and on the Cinemax channels;

28 ///

- 1 h. appeared in mainstream publications including TV Guide, LA Times, LA
2 Weekly, OC Weekly, Stuff, Premiere, Nylon and While You Were Sleeping;
- 3 i. appeared on the cover and in the centerfolds of famous men's magazines
4 including Penthouse;
- 5 j. acted in the mainstream motion picture titled "The Girl Next Door;"
- 6 k. given college lectures on human sexuality including as a featured guest
7 speaker at Yale University;
- 8 l. appeared on the nationally syndicated radio talk-show and television show
9 "The Howard Stern Radio Show" as well as on various other television shows;
- 10 m. starred in several seasons of the celebrated Playboy TV series 7 Lives
11 Xposed;
- 12 n. modeled for the Mercedes Benz lifestyle magazine Benzo; and
- 13 o. worked as a spokesmodel for Third Rail Clothing.

14 25. On or about March 15, 2005, DOMAINS BY PROXY registered the web site
15 domain name www.devinnlanexxx.com. Plaintiffs are informed and believe, and thereon
16 allege, that www.devinnlanexxx.com is owned, operated and controlled by DOMAINS BY
17 PROXY.

18 26. It or about late 2007, MCCARVER discovered that www.devinnlanexxx.com was
19 registered by DOMAINS BY PROXY and further that the web site was redirecting traffic to
20 www.kim1.vivid.com, a web site and domain name owned, operated and controlled by VIVID.
21 Plaintiffs are informed and believe that VIVID willfully conspired with DOMAINS BY PROXY
22 to unlawfully use the Mark in order to promote, identify and divert customer traffic to
23 www.kim1.vivid.com.

24 27. In or about January 2008, www.devinnlanexxx.com stopped redirecting traffic
25 to www.kim1.vivid.com and began displaying a web page containing advertising listings and
26 hypertext links to a number of adult web sites on the Internet (hereinafter "Parking Page 1").
27 Plaintiffs are informed and believe, and thereon allege, that Parking Page 1 is owned,
28 operated and controlled by DOTSTER. Plaintiffs are informed and believe, and thereon

1 allege, that when a visitor to www.devinnlanexxx.com access one of said links, revenue is
 2 generated for DOTSTER and DOMAINS BY PROXY. Plaintiffs are informed and believe that
 3 DOTSTER and DOMAINS BY PROXY willfully conspired with each other to unlawfully use
 4 the Mark in order to promote, identify and divert customer traffic to various other web sites.

5 28. In or about February of 2008, www.devinnlanexxx.com stopped displaying
 6 Parking Page 1 and began redirecting traffic to www.digitalplayground.com, a web site and
 7 domain name owned, operated and controlled by DIGITAL PLAYGROUND. Plaintiffs are
 8 informed and believe that VIVID wilfully conspired with DOMAINS BY PROXY, DIGITAL
 9 PLAYGROUND and DOE 1 to unlawfully use the Mark in order to promote, identify and
 10 divert customer traffic to www.digitalplayground.com.

11 29. Thereafter www.devinnlanexxx.com stopped redirecting traffic to
 12 www.digitalplayground.com and resumed display of Parking Page 1, which continues to be
 13 displayed as of the date of the filing of this Complaint.

14 30. On or about July 11, 2007, MONIKER registered the web site domain name
 15 www.devinnlane.org. Plaintiffs are informed and believe, and thereon allege, that
 16 www.devinnlane.org is owned, operated and controlled by MONIKER.

17 31. On or about July 17, 2006, MONIKER registered the web site domain name
 18 www.devinn-lane.org. Plaintiffs are informed and believe, and thereon allege, that
 19 www.devinn-lane.org is owned, operated and controlled by MONIKER.

20 32. The web sites www.devinn-lane.org and www.devinnlane.org both redirect to
 21 a web page featuring adult-entertainment content. Plaintiffs are informed and believe that
 22 MONIKER and DOE 2 have willfully conspired with each other to unlawfully use the Mark in
 23 order to promote, identify and divert customer traffic to the web site and/or sites owned,
 24 operated and/or controlled by DOE 2

25 33. On or about May 5, 2003, PIXEL registered the web site domain name
 26 www.devinn-lane.com. Plaintiffs are informed and believe, and thereon allege, that
 27 www.devinn-lane.com is owned, operated and controlled by PIXEL. This web site currently
 28 displays a web page containing advertising listings and hypertext links to a number of adult

1 web sites on the Internet (hereinafter "Parking Page 2"). Plaintiffs are informed and believe,
2 and thereon allege, that Parking Page 2 is owned, operated and controlled by PIXEL.
3 Plaintiffs are informed and believe, and thereon allege, that when a visitor to
4 www.devinnlanexxx.com access one of said links, revenue is generated for PIXEL. Plaintiffs
5 are informed and believe that PIXEL is willfully engaged in unlawful use the Mark in order
6 to promote, identify and divert customer traffic to various other web sites.

7 34. On or about April 13, 2007, PRIVACY PROTECT registered the web site
8 domain name www.devinnlanecash.com. Plaintiffs are informed and believe, and thereon
9 allege, that www.devinnlanecash.com is owned, operated and controlled by PRIVACY
10 PROTECT.

11 35. Defendants' conduct as alleged herein is likely to cause confusion in the
12 marketplace. Defendants' conduct has caused and will cause actual and potential customers
13 of Plaintiffs to believe that Defendants and their goods and services are somehow affiliated
14 with, sponsored by, endorsed by or related to Plaintiffs.

15 36. Defendants' registration and redirection of web sites containing the Mark is a
16 deliberate attempt to trade on Plaintiffs' goodwill and the prestige and reputation of Plaintiffs'
17 and their products and services. Defendants' conduct has caused, and will continue to
18 cause, significant damages, including lost sales and profits, and irreparable harm to
19 Plaintiffs. Moreover, Defendants' conduct has caused and will cause significant harm to
20 Plaintiffs' reputation and goodwill, as well as the reputation and goodwill of Plaintiffs' Mark,
21 which Plaintiffs have established through years of effort and expense.

22 37. Plaintiffs are informed and believe, and thereon allege, that Defendants'
23 conduct will continue unless enjoined by this Court.

24 38. Collectively, www.devinnlanexxx.com, www.devinn-lane.org,
25 www.devinnlane.org, www.devinn-lane.com and www.devinnlanecash.com are hereinafter
26 referred to as the "Infringing Sites." Third parties are able to reach the Infringing Sites via
27 Internet searches or by simply typing in the domain name in an Internet browser. Because
28 ///

1 Plaintiffs' Mark is well known and famous, Defendants' use of the Mark results in substantial
 2 Internet traffic.

3 39. Plaintiffs are informed and believe that Defendants are using the Mark
 4 deliberately and intentionally in order to drive consumers to the Infringing Sites and other
 5 web sites, and to capture and trade on the goodwill and notoriety of the Mark. Defendants'
 6 use of the Mark constitutes a commercial use in interstate commerce.

7 40. Defendants have infringed the Mark and/or induced infringement of the Mark,
 8 by using the domain names of the Infringing Sites and otherwise using the Mark in
 9 connection with their operation of other infringing web sites. Plaintiffs are informed and
 10 believe that Defendants are selling advertising on the Infringing Sites, including hyperlinks
 11 to other Internet merchants, and primarily those of an adult nature. By these acts,
 12 Defendants are profiting from the diversion of traffic and harming the value of the Mark.

13 41. The Mark was distinctive and famous before and at the time Defendants
 14 registered the domain names of the Infringing Sites and infringed on Plaintiffs' Mark.

FIRST CAUSE OF ACTION

(Trademark Infringement Under 15 U.S.C. § 1114 - Against All Defendants)

17 42. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
 18 41, inclusive, and incorporate them herein by this reference.

19 43. On July 6, 2001, Plaintiffs filed an application to register the mark "Devinn
 20 Lane" on the Principal Register of the United States Patent and Trademark Office.

21 44. On April 30, 2002, U.S. Registration No. 2,565,432 (attached hereto as Exhibit
 22 "A") was duly and legally issued to Plaintiffs for "Devinn Lane" for personal appearances by
 23 a movie star, television celebrity, model and dancer, and in the form of providing an on-line
 24 global computer network web site featuring entertainment, graphics, pictures, photos and
 25 audio-visual works. The Mark identifies a living individual, namely MCCARVER, and
 26 MCCARVER uses the Mark to identify herself in providing each and every service indicated
 27 herein. The Mark has become uniquely associated with, and hence identifies, Plaintiffs as
 28 ///

1 the source of high quality entertainment services and related products. The Mark is arbitrary
2 and fanciful.

3 45. Plaintiffs own the trademark to "Devinn Lane" which appears in the top-level
4 domain name of the Infringing Sites as well as being prominently displayed on the Infringing
5 Sites. In using the Mark in this manner, Defendants are making commercial use of the Mark
6 in interstate commerce, and as such are intentionally and willfully infringing Plaintiffs' Mark
7 under an identical mark without consent or authority from Plaintiffs.

8 46. Defendants' actions and use of the Mark are intended to and are likely to cause
9 confusion, to cause mistake, and to deceive consumers and the general public into believing,
10 initially and otherwise, that the services and products Defendants are selling are actually
11 produced, endorsed by and/or in association with Plaintiffs.

12 47. Defendants' use of Plaintiffs' registered trademark in connection with the
13 Infringing Sites trades off the quality, reputation and goodwill established by Plaintiffs and
14 violates the Lanham Act, 15 U.S.C. §1114.

15 48. As a result of Defendants' infringing actions alleged herein, Plaintiffs have
16 incurred and will continue to incur significant damages in an amount to be proven at trial
17 consisting of, *inter alia*, lost sales and profits, actual diversion of trade and diminution in the
18 value of the reputation and goodwill associated with the Mark, and irreparable harm to
19 Plaintiffs. Such damages should be assessed at up to three times the amount determined
20 at trial, pursuant to 15 U.S.C. § 1117(a). Plaintiffs are also entitled to Defendants' profits
21 pursuant to 15 U.S.C. § 1117(a).

22 49. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'
23 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an
24 injunction restraining Defendants, their officers, directors, agents, employees,
25 representatives and all persons acting with them from engaging in or in furtherance of such
26 acts of trademark infringement and requiring that Defendants remove the infringing mark
27 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation
28 thereof.

1 50. Such conduct by Defendants has been deliberate, willful, fraudulent and
2 constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an
3 "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

SECOND CAUSE OF ACTION

(Federal Trademark Dilution Under 15 U.S.C. §1125(c) - Against All Defendants)

6 51. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
7 50, inclusive, and incorporate them herein by this reference.

8 52. Plaintiffs' Mark is distinctive and famous in the minds of the relevant public
9 within the meaning of the Federal Trademark Dilution Act of 1995, 15 U.S.C. §1125(c), and
10 has been famous since before Defendants' began using the Mark.

11 53. Defendants are making commercial use of the famous Mark in interstate
12 commerce and are marketing to the same consumers as Plaintiffs.

13 54. Defendants' activities as alleged herein constitute dilution of the distinctive
14 quality of Plaintiffs' Mark and tarnishment of the reputation of the Mark in violation of the
15 Federal Trademark Dilution Act of 1995, 15 U.S.C. §1125(c).

16 55. Plaintiffs are informed and believe, and thereon allege, that Defendants intend
17 to willfully trade on the reputation of Plaintiffs and Plaintiffs Mark, and cause dilution of the
18 Mark by implying an association between Plaintiffs and Defendants when none exists.

19 56. As a result of Defendants' actions, Plaintiffs have suffered and continue to
20 suffer damages in an amount to be determined at trial. Such damages should be assessed
21 at up to three times the amount determined at trial, pursuant to 15 U.S.C. §§ 1125(c)(5) and
22 1117(a). Plaintiffs are also entitled to any damages sustained by Plaintiffs and Defendants'
23 profits pursuant to 15 U.S.C. § 1117(a).

24 57. Defendants' actions have caused Plaintiffs harm for which they have no
25 adequate remedy at law which will be irreparable if Defendants are not enjoined from
26 continuing the conduct alleged herein. Accordingly, Defendants should be enjoined from
27 using the Infringing Sites or any confusingly similar variation thereof. Plaintiffs are entitled
28 to injunctive relief pursuant to 15 U.S.C. § 1117(a) as set forth in 15 U.S.C. § 1125(c).

1 58. Plaintiffs are informed and believe that such conduct by Defendants is
2 deliberate, willful, fraudulent and constitutes a knowing violation of Plaintiffs' trademark
3 rights, thus rendering this an "exceptional case" entitling Plaintiffs to attorney's fees under
4 15 U.S.C. § 1117(a).

5 59. Because Defendants willfully intended to trade on Plaintiffs' reputation and
6 goodwill or to cause dilution of Plaintiffs' famous trademark, Plaintiff is entitled to damages,
7 extraordinary damages, fees and costs pursuant to 15 U.S.C. §1117(a).

THIRD CAUSE OF ACTION

(FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION - Against All Defendants)

11 60. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
12 59, inclusive, and incorporate them herein by this reference.

13 61. Defendants use of Plaintiffs' Mark in interstate commerce as alleged herein
14 gives the false and misleading impression that Plaintiffs authorized said usage. Defendants
15 are making commercial use of the famous Mark in interstate commerce and are marketing
16 to the same consumers as Plaintiffs under a false designation of origin.

17 62. Defendants' use of Plaintiffs' Mark is likely to cause likely to cause confusion,
18 mistake and/or deception as to (a) the affiliation, connection and/or association of
19 Defendants with Plaintiffs, and (b) as to the origin, sponsorship, endorsement and/or
20 approval of Defendants' goods, services and/or commercial activities by Plaintiffs.

21 63. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'
22 conduct and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an
23 injunction restraining Defendants, their officers, directors, agents, employees,
24 representatives and all persons acting with them from engaging in or in furtherance of such
25 acts of trademark infringement and requiring that Defendants remove the infringing mark
26 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation
27 thereof.

28 | //

1 64. As a result of Defendants' actions, Plaintiffs have suffered and continue to
2 suffer damages in an amount to be determined at trial. Such damages should be assessed
3 at up to three times the amount determined at trial, pursuant to 15 U.S.C. § 1117(a).
4 Plaintiffs are also entitled to Defendants' profits made as a result of their improper and illegal
5 activities pursuant to 15 U.S.C. § 1117(a).

6 65. Plaintiffs are informed and believe that such conduct by Defendants is
7 deliberate, willful, fraudulent and constitutes a knowing violation of Plaintiffs' trademark
8 rights, thus rendering this an "exceptional case" entitling Plaintiffs to attorney's fees under
9 15 U.S.C. § 1117(a).

FOURTH CAUSE OF ACTION

(CONTRIBUTORY TRADEMARK INFRINGEMENT - Against all Defendants)

12 66. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
13 65, inclusive, and incorporate them herein by this reference.

14 67. Plaintiffs are informed and believe that Defendants, and each of them, know
15 of the Infringing Sites, know the Infringing Sites infringe the Mark and that the Infringing Sites
16 result in increased business for Defendants due to, *inter alia*, increased Internet traffic
17 generated from the Infringing Sites.

18 68. Plaintiffs are informed and believe that Defendants entered into formal written
19 contracts with the Infringing Sites, establishing them as a formal affiliate. These contracts
20 grant Defendants the right to directly control and/or monitor content on the Infringing Sites,
21 including the right to monitor and/or control any trademark violations.

22 69. By providing the Infringing Sites with money and/or advertising links and/or
23 connections to an extensive network of advertisers on the Internet, Defendants substantially
24 support, encourage and contribute to the infringement of Plaintiffs' Mark.

25 70. Plaintiffs are informed and believe, and thereon allege, that Defendants, and
26 each of them, knowingly induced acts of direct infringement of the Mark by explicitly and/or
27 implicitly suggesting such infringing acts as alleged herein. Further, Defendants, and each
28 of them, have continued and are continuing to profit from Internet traffic on the Infringing

1 Sites and knows or has reason to know that the Infringing Sites, and the profits generated
2 therefrom, result from the infringement of Plaintiffs' Mark.

3 71. Therefore, in addition to directly infringing Plaintiffs' trademark, Defendants are
4 liable for contributory infringement of Plaintiffs' trademark under 15 U.S.C. §§1114 and 1125.

5 72. Defendants' actions and use of the Mark are intended to and are likely to cause
6 confusion, to cause mistake, and to deceive consumers and the general public into believing,
7 initially and otherwise, that the services and products Defendants are selling are actually
8 produced or endorsed by, or in association with, Plaintiffs.

9 73. Defendants' use of Plaintiffs' registered trademark in connection with the
10 Infringing Sites trades off the quality, reputation or goodwill established by Plaintiffs and
11 violates the Lanham Act, 15 U.S.C. §1114.

12 74. As a result of Defendants' infringing actions as herein alleged, Plaintiffs have
13 incurred and will continue to incur significant damages in an amount to be proven at trial,
14 consisting of, among other things, lost sales and profits, actual diversion of trade and
15 diminution in the value of the reputation goodwill associated with the Mark, and irreparable
16 harm to Plaintiffs. Such damages should be assessed at up to three times the amount
17 determined at trial, pursuant to 15 U.S.C. § 1117(a). Plaintiffs are also entitled to
18 Defendants' profits pursuant to 15 U.S.C. § 1117(a).

19 75. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'
20 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an
21 injunction restraining Defendants, their officers, directors, agents, employees,
22 representatives and all persons acting with them from engaging in or in furtherance of such
23 acts of trademark infringement and requiring that Defendants remove the infringing mark
24 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation
25 thereof.

26 76. Such conduct by Defendants has been deliberate, willful, fraudulent and
27 constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an
28 "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

FIFTH CAUSE OF ACTION

(CYBERSQUATTING IN VIOLATION OF 15 U.S.C. § 1125(d) - Against All Defendants)

77. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through 76, inclusive, and incorporate them herein by this reference.

78. Defendants, and each of them, have registered, trafficked in and/or used the domain names of the Infringing Sites as alleged herein

79. The domain names of the Infringing Sites are identical to and confusingly similar to the Mark. In addition, the domain names of the Infringing Sites are dilutive of the Mark which is famous.

80. The Mark was distinctive and famous at the time Defendants registered the domain names of the Infringing Sites.

81. The domain names of the Infringing Sites, *inter alia*, consists of the name "Devinn Lane" which is commonly used to identify MCCARVER. By using said domain names, Defendants intended to divert customers from Plaintiffs' own online location for commercial gain and/or with the intent to tarnish or disparage the Mark by creating a likelihood of confusion as to the source, sponsorship, affiliation and/or endorsement of the Infringing Sites. Defendants know said domain names are identical to and confusingly similar to the Mark and have used the Infringing Sites without regard to the goods or services of Plaintiffs.

82. By means of the aforesaid actions, Defendants have harmed and will continue to harm the goodwill Plaintiffs have built for the Mark.

83. Defendants, and each of them, have committed the aforesaid acts with a bad faith to intent to profit from Plaintiffs' Mark.

84. As a result of Defendants' infringing actions as herein alleged, Plaintiffs have incurred and will continue to incur significant damages in an amount to be proven at trial, consisting of, among other things, lost sales and profits, actual diversion of trade and diminution in the value of the reputation goodwill associated with the Mark, and irreparable harm to Plaintiffs. Such damages should be assessed at up to three times the amount

1 determined at trial, pursuant to 15 U.S.C. § 1117(a). Plaintiffs are also entitled to
2 Defendants' profits pursuant to 15 U.S.C. § 1117(a).

3 85. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'
4 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an
5 injunction restraining Defendants, their officers, directors, agents, employees,
6 representatives and all persons acting with them from engaging in or in furtherance of such
7 acts of trademark infringement and requiring that Defendants remove the infringing mark
8 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation
9 thereof.

10 86. Such conduct by Defendants has been deliberate, willful, fraudulent and
11 constitutes a knowing violation of Plaintiffs' trademark rights, thus rendering this an
12 "exceptional case" entitling Plaintiffs to attorney's fees under 15 U.S.C. § 1117(a).

13 87. In addition, Plaintiffs may elect, at any time before final judgement is rendered
14 by the trial court, to recover, instead of actual damages and profits, an award of statutory
15 damages in the amount of not less than \$1,000.00 and not more than \$100,000.00 per
16 domain name, as the court considers just pursuant to 15 U.S.C. § 1117(d).

SIXTH CAUSE OF ACTION

(CYBERSQUATTING IN VIOLATION OF 15 U.S.C § 1129 - Against All Defendants)

19 88. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
20 87, inclusive, and incorporate them herein by this reference.

21 89. Without Plaintiffs' consent, Defendants have registered the domain names of
22 the Infringing Sites, which consist of and/or are confusingly similar to the name "Devinn
23 Lane" which MCCARVER uses to identify herself as a living person.

24 90. Plaintiffs are informed and believe, and thereon alleged, that Defendants have
25 committed the aforesaid acts with the specific intent to profit from MCCARVER's name by
26 selling the domain name for financial gain to a third party.

27 91. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'
28 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiffs are entitled to an

1 injunction restraining Defendants, their officers, directors, agents, employees,
2 representatives and all persons acting with them from engaging in or in furtherance of such
3 acts of trademark infringement and requiring that Defendants remove the infringing mark
4 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation
5 thereof. Further, Plaintiffs are entitled to and seek injunctive relief transferring the domain
6 names of the Infringing Sites to Plaintiffs pursuant to 15 U.S.C. § 1129(2).

7 92. In addition, Plaintiffs seek costs and attorney's fees pursuant to 15 U.S.C. §
8 1129(2).

SEVENTH CAUSE OF ACTION

(CYBERSQUATTING IN VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS

CODE § 17525 - Against All Defendants)

12 93. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
13 92, inclusive, and incorporate them herein by this reference.

14 94. Defendants, and each of them, have registered, trafficked in and/or used the
15 domain names of the Infringing Sites as alleged herein.

16 95. The domain names of the Infringing Sites consists of and/or are confusingly
17 similar to the name “Devinn Lane” which MCCARVER uses as her personal name.

18 96. The domain names of the Infringing Sites, *inter alia*, consists of the name
19 "Devinn Lane" which is commonly used to identify MCCARVER. By using said domain
20 names, Defendants intended to, and continue to intend to, divert customers from Plaintiffs'
21 own online location for commercial gain and/or with the intent to tarnish or disparage the
22 Mark by creating a likelihood of confusion as to the source, sponsorship, affiliation and/or
23 endorsement of the Infringing Sites. Defendants know said domain names are identical to
24 or confusingly similar to the Mark and have used the Infringing Sites without regard to the
25 goods or services of Plaintiffs.

26 97. By means of the aforesaid actions, Defendants have harmed and will continue
27 to harm the goodwill Plaintiffs have built for the Mark.

28 || //

1 98. Defendants, and each of them, have committed the aforesaid acts with a bad
2 faith to intent to profit from Plaintiffs' Mark.

3 99. As a result of Defendants' infringing actions as herein alleged, Plaintiffs have
4 incurred and will continue to incur significant damages in an amount to be proven at trial,
5 consisting of, among other things, lost sales and profits, actual diversion of trade and
6 diminution in the value of the reputation goodwill associated with the Mark, and irreparable
7 harm to Plaintiffs.

8 100. Further irreparable harm to Plaintiffs is imminent as a result of Defendants'
9 conduct, and Plaintiffs are without an adequate remedy at law. Plaintiff are entitled to and
10 seek an injunction restraining Defendants, their officers, directors, agents, employees,
11 representatives and all persons acting with them from engaging in or in furtherance of such
12 acts of trademark infringement and requiring that Defendants remove the infringing mark
13 from the Infringing Sites and to cease all uses of the Mark or any confusingly similar variation
14 thereof. Further, Plaintiffs seek injunctive relief transferring the domain names of the
15 Infringing Sites to Plaintiffs.

EIGHTH CAUSE OF ACTION

(COMMON LAW MISAPPROPRIATION OF LIKENESS - Against All Defendants)

18 101. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
19 100, inclusive, and incorporate them herein by this reference.

20 102. As alleged herein, Defendants, and each of them, have invaded MCCARVER's
21 right to privacy by using MCCARVER's identity, including without limitation her name,
22 likeness and/or personality, in the top-level domains of and within the Infringing Sites. In
23 doing so, Defendants, and each of them, have knowingly appropriated MCCARVER's name
24 and/or likeness for Defendants' advantage, commercially and/or otherwise. Said
25 appropriation was unauthorized and done without Plaintiffs' consent. Plaintiffs are informed
26 and believe that by use of said appropriation, Defendants have earned increased revenue.

27 103. As a proximate result of the above misappropriation, MCCARVER suffered loss
28 of reputation and standing in the community, all of which caused her humiliation,

1 embarrassment, hurt feelings, mental anguish and suffering, all to her general damage in an
2 amount according to proof.

3 104. As a further proximate result of the above-mentioned misappropriation,
4 MCCARVER has suffered injury to her business in the form of lost internet traffic and
5 revenue, all to her special damage in an amount according to proof.

6 105. Defendants' misappropriation, as alleged above, was oppressive and malicious
7 within the meaning of Civil Code Section 3294 in that it subjected MCCARVER to cruel and
8 unjust hardship in willful and conscious disregard of MCCARVER's rights and safety, thereby
9 entitling MCCARVER to an award of punitive damages.

10 106. Further irreparable harm to MCCARVER is imminent as a result of Defendants'
11 conduct, and MCCARVER is without an adequate remedy at law. MCCARVER is entitled to
12 an injunction restraining Defendants, their officers, directors, agents, employees,
13 representatives and all persons acting with them from engaging in or in furtherance of such
14 acts of misappropriation.

NINTH CAUSE OF ACTION

**(COMMERCIAL MISAPPROPRIATION OF LIKENESS UNDER CALIFORNIA CIVIL
CODE §3344 - Against All Defendants)**

18 107. Plaintiffs reallege each and every allegation set forth in paragraphs 1 through
19 106, inclusive, and incorporate them herein by this reference.

20 108. As alleged herein, Defendants, and each of them, have invaded MCCARVER's
21 right to privacy by using MCCARVER's name, likeness and/or photograph(s) in the top-level
22 domains of and within the Infringing Sites. In doing so, Defendants, and each of them, have
23 knowingly appropriated MCCARVER's name and/or likeness for Defendants' advantage in
24 direct connection with advertising and commercial sales. Said appropriation was
25 unauthorized and done without Plaintiffs' consent. Plaintiffs are informed and believe that
26 Defendants have earned increased revenue by said appropriation.

27 109. As a proximate result of the above misappropriation, MCCARVER suffered loss
28 of reputation and standing in the community, all of which caused her humiliation,

1 embarrassment, hurt feelings, mental anguish and suffering, all to her general damage in an
2 amount according to proof.

3 110. As a further proximate result of the above-mentioned misappropriation,
4 MCCARVER has suffered injury to her business in the form of lost internet traffic and
5 revenue, all to her special damage in an amount according to proof.

6 111. Defendants' misappropriation, as alleged above, was oppressive and malicious
7 within the meaning of Civil Code Section 3294 in that they subjected MCCARVER to cruel
8 and unjust hardship in willful and conscious disregard of MCCARVER's rights and safety,
9 thereby entitling MCCARVER to an award of punitive damages.

10 112. Further irreparable harm to MCCARVER is imminent as a result of Defendants'
11 conduct, and MCCARVER is without an adequate remedy at law. MCCARVER is entitled to
12 an injunction restraining Defendants, their officers, directors, agents, employees,
13 representatives and all persons acting with them from engaging in or in furtherance of such
14 acts of misappropriation.

PRAYER FOR RELIEF

16 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
17 follows:

- 18 1. Actual compensatory damages in an amount according to proof at trial;

19 2. Special compensatory damages in an amount according to proof at trial;

20 3. That the Court's award of actual damages to Plaintiffs be trebled pursuant to

21 15 U.S.C. § 1117(a);

22 4. Punitive damages as to the Eighth and Ninth Causes of Action;

23 5. Disgorgement of all gains, profits and advantages derived by Defendants from

24 their acts of unfair competition, infringement, violations of the Plaintiffs' right

25 to privacy and other violations of law;

26 6. Costs of suit including reasonable attorneys fees;

27 7. For prejudgment interest at the maximum legal rate;

28 | //

- 1 8. Injunctive relief against Defendants, their officers, agents, servants,
2 representatives employees, attorney, parents, subsidiaries, related companies,
3 partners, successors, predecessors, assigns, and all persons acting for, with,
4 by, through, or under them, and each of them, preliminarily and thereafter
5 permanently enjoined and restrained from:
- 6 a. Using in any manner the Mark, the Infringing Sites or any other
7 term or terms likely to cause confusion with the Mark in a domain
8 name or in connection with other words as a trademark, trade
9 name or otherwise, to market, advertise or identify any of
10 Defendants' web sites, goods, services and products;
- 11 b. Using the Mark or any other mark or word similar to the Mark in
12 a manner that is likely to cause dilution, confusion, or mistake or
13 to deceive;
- 14 c. Otherwise infringing the Mark;
- 15 d. Unfairly competing with Plaintiffs in any manner whatsoever; and
- 16 e. Causing likelihood of confusion or injury to business reputation of
17 the Mark;
- 18 f. Ordering Defendants to promptly transfer the domain names of the
19 Infringing Sites to Defendants;
- 20 9. For such other and further relief as the Court deems just and proper.

21
22 Dated: October 9, 2008

LAW OFFICES OF FATTOROSI & CHISVIN

23 By: 

24 Michael W. Fattorosi, Attorney for Plaintiffs,
25 CHERILYN MCCARVER, an individual, and
26 LANE ENTERTAINMENT, INC., a California
27 Corporation

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial pursuant to F.R.Civ.P. 38(b) and Local Central District Rule 38-1.

Dated: October 9, 2008

LAW OFFICES OF FATTOROSI & CHISVIN

By

~~Michael W. Fattorosi, Attorney for Plaintiffs,
CHERILYN MCCARVER, an individual, and
LANE ENTERTAINMENT, INC., a California
Corporation~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

¶

EXHIBIT "A"



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Oct 8 04:14:48 EDT 2008

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [Browse Dict](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (*Use the "Back" button of the Internet Browser to return to TESS*)

Typed Drawing

Word Mark	DEVINN LANE
Goods and Services	IC 041. US 100 101 107. G & S: ENTERTAINMENT SERVICES, NAMELY, PERSONAL APPEARANCES BY A MOVIE STAR, TELEVISION CELEBRITY, MODEL, AND DANCER; ENTERTAINMENT SERVICES, NAMELY, PROVIDING AN ON-LINE GLOBAL COMPUTER NETWORK WEBSITE FEATURING ENTERTAINMENT GRAPHICS, PICTURES, PHOTOS, AND AUDIO-VISUAL WORKS. FIRST USE: 19931101. FIRST USE IN COMMERCE: 19931101
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	78072735
Filing Date	July 6, 2001
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	February 5, 2002
Registration Number	2565432
Registration Date	April 30, 2002
Owner	(REGISTRANT) TRILANE PRODUCTIONS, INC. CORPORATION CALIFORNIA 12722 RIVERSIDE DRIVE SUITE 204 NORTH HOLLYWOOD CALIFORNIA 916073393 (LAST LISTED OWNER) LANE ENTERTAINMENT, INC. CORPORATION CALIFORNIA 12722 RIVERSIDE DRIVE SUITE 204 NORTH HOLLYWOOD CALIFORNIA 916073393
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	MICHAEL W. FATTOROSI
Type of Mark	SERVICE MARK
Register	PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Other Data The name "DEVINN LANE" identifies a living individual whose consent is of record.

Live/Dead Indicator LIVE

TESS HOME **NEW USER** **STRUCTURED** **FREE FORM** **BROWSE DICT** **SEARCH OG** **TOP** **HELP**

[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is Frederick F. Mumm.

The case number on all documents filed with the Court should read as follows:

CV08- 6739 DDP (FFMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Michael W. Fattorosi, Esq., Calif. State Bar # 193558
 Craig L. Chisvin, Esq., Calif. State Bar #191825
 LAW OFFICES OF FATTOROSI & CHISVIN
 6300 Canoga Ave. #550, Woodland Hills, CA 91367
 Tel: 818-881-8500, Fax: 818-881-9008

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHERILYN MCCARVER, an individual, and LANE ENTERTAINMENT, INC., a California Corporation
PLAINTIFF(S)

v.

VIVID ENTERTAINMENT GROUP, LLC, a California Limited Liability Company; DIGITAL PLAYGROUND, INC., a California Corporation; DOMAINS BY PROXY, INC., an Arizona Corporation; DOTSTER, INC., a Delaware Corporation; MONIKER ONLINE SERVICES, LLC, a Florida Limited Liability Company; PIXEL STREAMED NETWORKING, LLC, a Hawaiian Limited Liability Company; WHOIS PRIVACY PROTECTION SERVICE, INC., a Washington Corporation; and DOES 1 through 10, inclusive.

DEFENDANT(S).

CASE NUMBER

CV 08-06137

DDP (FFM)

SUMMONS

TO: DEFENDANT(S): _____
 VIVID ENTERTAINMENT GROUP, LLC, a California Limited Liability Company; DIGITAL PLAYGROUND, INC., a California Corporation; DOMAINS BY PROXY, INC., an Arizona Corporation; DOTSTER, INC., a Delaware Corporation; MONIKER ONLINE SERVICES, LLC, a Florida Limited Liability Company; PIXEL STREAMED NETWORKING, LLC, a Hawaiian Limited Liability Company; WHOIS PRIVACY PROTECTION SERVICE, INC., a Washington Corporation; and DOES 1 through 10, inclusive,

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Michael W. Fattorosi, whose address is 6300 Canoga Avenue, Suite 550, Woodland Hills, CA 91367. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

OCT 14 2008

Dated: _____

LA'REE HORN

By: _____

Deputy Clerk



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

(a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) CHERILYN MCCARVER, an individual, and LANE ENTERTAINMENT, INC., a California Corporation	(b) DEFENDANTS VIVID ENTERTAINMENT GROUP, LLC, a California Limited Liability Company; DIGITAL PLAYGROUND, INC., a California Corporation; DOMAINS BY PROXY, INC., an Arizona Corporation; DOTSTER, INC., a Delaware Corporation; MONIKER ONLINE SERVICES, LLC, a Florida Limited Liability Company; PIXEL STREAMED NETWORKING, LLC, a Hawaiian Limited Liability Company; WHOIS PRIVACY PROTECTION SERVICE, INC., a Washington Corporation; and DOES 1 through 10, inclusive.
(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): Monongalia County, West Virginia	County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only): Los Angeles, CA
(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) LAW OFFICES OF FATTOROSI & CHISVIN 6300 Canoga Avenue Suite 550, Woodland Hills, CA 91367 Tel: 818-881-8500 *** see attachment ***	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)					
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 4
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 5
				Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)	<input checked="" type="checkbox"/> 1 Original <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
--	--

V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)	<input checked="" type="checkbox"/> MONEY DEMANDED IN COMPLAINT: \$ Preliminary Injunction
--	--

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)	Copyright Infringement (17 U.S.C. 101, et. seq.) and Federal Unfair Competition under the Lanham Act (15 U.S.C. 1125(a) and (c)).
--	---

VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other FORFEITURE / PENALTY <input type="checkbox"/> 555 Prison Condition CIVIL RIGHTS <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? No Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number:

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? No Yes

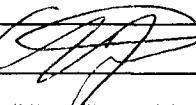
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- A. Arise from the same or closely related transactions, happenings, or events; or
 - B. Call for determination of the same or substantially related or similar questions of law and fact; or
 - C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 - D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary) Check here if the U.S. government, its agencies or employees is a named plaintiff.CHERILYN MCCARVER, West Virginia
LANE ENTERTAINMENT, INC., Los Angeles, CaliforniaList the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary). Check here if the U.S. government, its agencies or employees is a named defendant.VIVID ENTERTAINMENT GROUP, LLC, Los Angeles, California
DOMAINS BY PROXY, INC., Arizona
MONIKER ONLINE SERVICES, LLC, Florida
WHO IS PRIVACY PROTECTION SERVICE, INC., WashingtonDIGITAL PLAYGROUND, INC., Los Angeles, California
DOTSTER, INC., Washington
PIXEL STREAMED NETWORKING, LLC, Hawaii;
DOES 1 through 10**List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)****Note:** In land condemnation cases, use the location of the tract of land involved.

Los Angeles County, California

X. SIGNATURE OF ATTORNEY (OR PRO PER): 

Date October 9, 2008

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	IHA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935ff(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

Addendum to Civil Cover Sheet

McCarver v. Vivid Entertainment Group, LLC

1.(c). Attorneys of Record:

Michael W. Fattorosi, Esq., Calif. State Bar No. 193538
Craig L. Chisvin, Esq., Calif. State Bar No. 191825